

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION**

BOBBY FRANCIS LOWRY,

Petitioner,

v.

JAMES SALMONSEN,

Respondent.

CV-18-63-BU-BMM-JCL

**ORDER ADOPTING MAGISTRATE  
JUDGE’S FINDINGS AND  
RECOMMENDATIONS**

Petitioner Bobby Francis Lowry challenged a criminal conviction for the Promotion of Prostitution handed down in Montana’s Eighteenth Judicial District Court, Gallatin County, on August 23, 2017. (Doc. 1 at 1). Following the entry of an *Alford* plea, Mr. Lowry was sentenced to five years in Montana State Prison. *Id.* Mr. Lowry claims that he has been denied access to the state courts and has, accordingly, been unable to challenge his allegedly unlawful conviction. *Id.* at 2-3.

United States Magistrate Judge Lynch entered Findings and Recommendations on October 29, 2018, determining that Mr. Lowry had not made a substantial showing that he was deprived of a constitutional right. (Doc. 4 at 4). Judge Lynch further determined Mr. Lowry’s petition was unexhausted and that reasonable jurists would find no basis to encourage further proceedings. *Id.*

No party filed objections to Judge Lynch’s Findings and Recommendations. The Court has reviewed the Findings and Recommendation for clear error.

*McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). The Court finds no error in Judge Lynch's Findings and Recommendations and adopts them in full.

### **ORDER**

Accordingly, **IT IS ORDERED** that Magistrate Judge Lynch's Findings and Recommendations (Doc. 4) are **ADOPTED IN FULL**.

**IT IS ORDERED** that the petition (Doc. 1) is **DISMISSED** as unexhausted.

**IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**.

The Clerk of the Court is directed to enter by a separate document a judgement of dismissal.

DATED this 16th day of November, 2018.



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Brian Morris  
United States District Court Judge